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Attorney Docket No. 50021-0005

### REMARKS

This amendment responds to the Office action mailed August 9, 2002. As originally filed, the present application presented claims 1 through 52 for examination. The previous response amended claims 1, 2, 26, 28, 34, 36, 44 and 48 and canceled claims 24, 25, 33 and 43. Accordingly, claims 1-23, 26-32, 34-42 and 44-52 were pending in the present application. Claims 1 and 36 have been amended by the instant response and claims 21 and 50 have been canceled. Applicants respectfully request reconsideration of the pending claims in view of the above amendments and the following remarks.

By action taken here, Applicants in no way intend to surrender any range of equivalents beyond that needed to patentably distinguish the claimed invention as a whole over the prior art. Applicants expressly reserve all such equivalents that may fall in the range between Applicants' literal claim recitations and combinations taught or suggested by the prior art.

#### I Applicant's Invention

Applicant's invention is a device, adapted for mobile use, for coded interface with an onboard, remote vehicle incident recording system, which generates secure data only accessible by a code provided to the remote vehicle incident recording system. Thus, the device first transmits an access code which is read onboard the vehicle by the remote vehicle incident system, in order to gain access to the data of the remote vehicle incident recording system. Once access is gained, by use of the access code, the data can be transmitted to the device or a secure repository or both. The access code is not required to operate the device or to operate the remote vehicle incident recording system. The remote vehicle incident recording system does not receive data to be performed upon or transmitted from any other source e.g. a speed limit. Thus, the remote vehicle incident recording system is "silent" unless and until the access code is received by the system. Only then does the remote vehicle incident recording system transmit system data.

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## II. Amendment of Independent Claims 1 and 36

In the present response, Applicants amend independent claims 1 and 36. As discussed below, the amendment of claims 1 and 36 clarifies that the vehicle incident recording system data access is coded by requiring transmission of a code to the on board vehicle incident recording system to access data generated by said system. The device is also capable of transmitting the accessed data from the remote vehicle incident recording system to a secure location that is separate from the device. The claim language has been cleaned up to omit unneeded redundancy. Applicants' have simplified the claim structure by this amendment without removing limitations of the previous amendment.

Thus, claim 1 recites "A device, being adapted for mobile use, for wireless, coded access of data from a remote vehicle incident recording system, located on a vehicle, ..." wherein the device has "at least one interface for transmitting a code to the remote vehicle incident recording system to access the data," "an information datalink, coupled to the at least one interface for receiving the accessed data"; and "a transceiver coupled, at least indirectly, to the information datalink, the transceiver adapted to transmit accessed data from the remote vehicle incident recording system located on the vehicle to the device or to a secure location separate from the device."

Similarly, the amendment clarifies that the claimed method provides for accessing information from a vehicle incident recording system by transmission of a code, using a device that is adapted for mobile use and is located at a remote distance from the vehicle. The method also provides for transmitting the information to the device or a secure location that is separate from the device.

Applicants submit that the amendment of claims 1 and 36 are fully supported by the specification. See, for example, Fig. 2 and discussion at page 6, lines 7-17, page 8 lines 5-13 of the present application. Applicants therefore submit that entry of the amendments is proper, since they do not add new matter.

## III Rejection of Claims 1-5, 7-8, 26-35, 44-45, 46-49 and 36 Under 35 U.S.C. § 102(b)

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of*

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*California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987) (emphasis added); MPEP 2131. In addition, the identical invention must be shown in as complete detail as is contained in the Applicant's claim. *Richardson v. Suzuki Co.*, 868 F.2d 1226, 1236. Horvat fails to meet these criteria. Applicant respectfully suggests that this §102(b) rejection cannot be sustained, and withdrawal is respectfully requested.

Horvat is a remote, inter active speed surveillance system, which does not anticipate applicants claimed invention for, at least, two reasons. First, the Horvat system is an "always on" system. Thus, the vehicle surveillance system 6 of Horvat is always transmitting. In fact if it does not transmit, a system default is recorded by stationary monitor 8 (in the reply always mode) ie Horvat is inoperative for its intended purpose. Second, since the system 6 is "always on" no access code is required to start system 6 transmitting the data. In fact, the only mention of access codes (plugs) is to render the system 6 operative in the "always on" transmitting mode, not to access the data. That is, without the access information the system 6 does not operate at all. Again, requiring a code to start the system 6 transmitting would render the Horvat system inoperative. Thus, the Horvat reference cannot anticipate or even render Applicants' claimed invention, as amended, obvious.

The Horvat system is inter-active to generate information to be stored. As set forth in Horvat,

"the monitor transceivers broadcast information including the speed limit for the given locale. The vehicle transceiver compares the received speed limit information against vehicle speed. A visual and/or audio warning may be given to the driver if the differential is below a set threshold. If the vehicle speed exceeds the speed limit by an amount greater than the given threshold, then a violation communication is issued. The vehicle transceiver sends speed limit violation information to the monitor transceiver, including the driver's identity by social security number or the like, and the vehicle identity, by license number or the like, together with the speed of the vehicle." (Col 1 lines 31-43)

The monitor 8 must transmit information to system 6 in order for 6 to transmit the required information to processor 22. First, processor 22 is not the repository of Applicants' claimed invention in that it has no permanent storage. The repository must have permanent storage or it is not a repository. Second, There is never a situation when system 6 communicates with processor 22 without getting interactive information from stationary

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system 8 or 10; and, system 6 never communicates with processor 22 as a result of passive mobile monitor 12.

"In preferred form, the stationary monitoring transceivers such as 8 and 10 send radio signals indicative of speed limit in their particular locale, and the vehicle transceivers such as 6 receive such speed indicative radio signals for comparison against vehicle speed, and reporting of a given relation, such as a violation, to central processor 22." (Col 4 lines 13-18) (It should be noted that this passage creates an ambiguity. There is no mechanism in system 6 for communicating with processor 22. Applicants believe the referral is to the interface between stationary monitor 8 or 10 and the repository. See Fig. 12)

This is contrary to Applicants' claimed invention wherein the vehicle incident recording device is commanded upon coded access to transmit to a repository or the device.

In the Office Action it is contended that, "Horvat discloses a device (12) for wireless access of vehicle information from a vehicle incident recording system which met by a vehicle transceiver (6), which is mounted in a vehicle for recording an over speed limit and tamper detecting system (see Fig. 2)" Thus device 12 of Horvat is equated to Applicants claimed device. First, the device of Horvat does not provide coded access to the vehicle device 6 of Horvat to access the information as does Applicants claimed invention; and, second the monitor transceiver 8 and 10 must send out comparative speed limit data for use by device 6, before it can communicate with processor 22 (If it can at all).

Applicants point is further shown by Horvat at col. 2 lines 27-31,

"In addition to the violation being transmitted to the monitor receiver, the violation is also stored in nonvolatile memory on-board the vehicle surveillance computer system for later retrieval and documented corroboration."

There is not a single hint in Hovat that the access to this information is coded, nor that monitor 12, 8, or 10 trigger this event.

In the analysis, the Examiner, at page 2 of the Action equates device 12, (shown in Figure 1 as onboard a police car) with Applicants' claimed device. The configuration in Figure 2, i.e. vehicle transceiver 6 is equated with applicants claimed vehicle incident

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recording system, which is on board vehicle 2 in Figure 1. As previously set out these systems of Horvat are not analogous.

The Examiner further contends that the transmitter 8 in Figure 3 is comparable to Applicant's claimed device. The transmitter 8 is a stationary, interactive monitor (see col 5 lines 24-51), which broadcasts time, date and speed limit data to system 6 and has a vehicle counter. Contrary to the Office Action, Figure 3 does not contain reference 90. Fig 4, which contains reference 90, is onboard vehicle 2 and part of system 6. Likewise, Figures 5, 6, and 7 are part of system 6 onboard vehicle 2. Thus, the means for receiving and displaying information referenced are on vehicle 2 not monitor 8, 10 or 12. They bear no resemblance to Applicants' claimed invention.

Further as previously indicated system 6 only transmits to processor 22 (if at all) when speed limit information is transmitted from a stationary monitor. A mobile unit 12 is not disclosed as transmitting this speed limit information, and in fact could not because it moves through a number of speed zones.

Additionally, the Examiner's contention that the monitor device receives information for displaying data is not supported by the specification, since display 40 and 44 are in the automobile carrying the vehicle surveillance computer 6 (See Figure 5 driver interface).

Moreover, the Examiner's assertion that mobile monitor transceiver 12 is a reply always type transceiver further teaches away from Applicant's claimed invention. In Applicant's claimed invention the vehicle incident recording system does not transmit unless and until it receives an access code from the device. There is no teaching or hint in Horvat that reply always system transmits any kind of access code to access data, or, in fact, any information at all. It passively monitors the transmission of system 6. Stationary monitors 8 and 10 likewise transmit no access codes. The Examiner's assertion that the "authority person should have an access code or password to input in the interface in order to operate the system" is totally contrary to Applicant's claimed invention. Having an access code to operate the monitor does not provide the transmitted access code to cause the vehicle incident recording system to transmit data.

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Examiner's contention in regard to the teaching of Horvat in respect to Applicant's claims 2 through 5 is likewise not found by Applicant. First, Horvat's tamper system is internal to the surveillance system and has to do with the enablement of the surveillance system 6 and is not related to Applicant's claimed invention.

Column 5 lines 16 -23 cited by the Examiner teach away from Applicant's claimed invention in that the timer is for insuring that the vehicle surveillance computer is executing its program. This is contrary to Applicant's claimed invention in that Applicant's vehicle incident recording system is always on, but not always transmitting to the device. The vehicle surveillance computer of Horvat, shown in Figure 13, displays the speed of the vehicle and indicates to the driver a violation by receiving the speed limit from the monitor transceiver 8. This, again, is totally contrary to Applicant's claimed invention in that Applicant's device is not transmitting any data to the driver of the car containing the vehicle incident recording system.

In summary, it is respectfully suggested that the tamper proof aspect and or the identity information security of Hovat is not the access code of Applicants claimed invention. (see col 1 lines 44-68). Further,

"The vehicle transceiver includes a preset codable input which is coded with the vehicle license number or other vehicle identification, and may be entered and accessed only by authorized personnel, such as the motor vehicle department. The vehicle transceiver also includes a second preset codable input which is selectively insertable by a driver by way of a magnetically readable card, keyboard entry, or the like, and contains driver identification such as social security number, driver's license or the like, and may have a plurality of authorized codes according to the number of authorized drivers. These codes are a condition precedent to vehicle operation. (Col 1 lines 17-30)

In addition the stationary monitors of Horvat perform a completely different function in that they supply independent data to the CPU about the recorded incident. At col 5 lines 26-35 it is disclosed in Horvat that,

"In the case of a stationary monitor transceiver 8 fixed to a telephone pole or the like, programming plug 72 provides entry of the identification number of the pole, the pole type, calendaring synchronization for date and time, speed limit, data phone number or the like, a timer limit for determining how often information is transmitted to cars for reply, and an alarm phone number, to be described.

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Nonvolatile memory 74 stores violation data until it can be transmitted to the authorities."

The only distinction Horvat makes between the stationary monitor and the mobil device 20 is,

"... the mobile type such as 12 in a patrol car. The mobile monitor transceiver 12 is usually a reply always type, and the stationary monitor transceiver 8 is usually a reply on violation type. With the reply always type monitor transceiver, a patrol car may know the speed of a vehicle regardless of whether the vehicle is above the speed limit. The stationary pole type monitor transceiver knows the speed of the vehicle only if the vehicle is a certain amount above the speed limit."

The code "assumed" in the Office Action is a "mobile system activation code to operate the system, not an access code. Thus any device, which can receive on the sending frequency of the system 6 can receive the signal. The device of applicants claimed invention must provide a code to the Vehicle incident recording device before the Vehicle Incident Recording System broadcasts any transmission even though the system is active and recording data all the time.

#### **IV Rejection of Claims Claims 14-21, 40-42 and 50 35 U.S.C. §103(a)**

To establish a prima facie case of obviousness, the U.S. Patent and Trademark office must meet three basic criteria. First, the prior art reference (or references when combined), considered as a whole, must teach or suggest all the claimed limitations. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, without the benefit of hindsight afforded by the claimed invention, to modify the reference or to combine reference teachings. Finally, there must be a reasonable expectation of success. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n. 5, 229 U.S.P.Q. 182, 187, n. 5 (Fed. Cir. 1986), MPEP 2141.

Claims 14-21, 40-42 and 50 are rejected under 35 U.S.C. §103(a) as being unpatentable over Horvat (U.S. Pat. 4,591,823.) Examiner's contention regarding claims 14 through 21 cannot be found by Applicants in the Horvat specification. Specifically, Horvat discloses that,

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"Receiver 78 has a directional antenna 80 and listens for vehicles on the vehicle sending frequency, which is the monitor receive frequency. Transmitter 82 has a directional antenna 84 and sends signals on the monitor transmit frequency, which is the vehicle receive frequency (Col 5 lines 41-46.)

There is nothing regarding triggering download of information. Moreover, this reference (Horvat) does not teach transmission of the access code to the vehicle incident recording system. Specifically, the Examiner states "...however, the monitor system 12 is mounted in a police patrol car, which means that only the authority person can be used (sic) that system. Therefore, it is obvious for one who having (sic) an authorization should have an access code in order to operate the system".

As clearly set out in both claims 1 and 36, the access code has nothing to do with operation of the device, but it is received by the vehicle incident recording system, and only then is data transmitted. In contrast, Horvat discloses 1.) that the transmission of vehicle transceiver 6 is always on, i.e. data is always being transmitted and, in fact, Horvat goes to great length to assure that the transmission is not interrupted (Col 5 lines 35-40); 2.) all codes for operability including the tamper and vehicle operation codes have nothing to do with data transmission or downloading but only system operability, since data transmission is always on; and 3.) the monitor surveillance computer 8 and the surveillance computer 6 are interactive exchanging information (not coded access) necessary to show a violation. System 12 is not interactive and monitors the system 6 only.

It is respectfully submitted that the Examiner is engaging in forbidden hindsight reconstruction of Applicant's claimed invention. There is nothing in Horvat, which would suggest its use in the manner suggested by the Examiner. Moreover even assuming the construction suggested by the examiner, this combination does not yield Applicants' claimed invention.

Furthermore, Claims 6, 9-11, 22-23, 38 and 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvat [US: Pat. 4,591,823] in view of Shamosh et al. [U.S. Pat. 5,144,661]. The Shamosh reference was overcome in the parent application, now U.S. Patent 6,211,907, which claimed the vehicle surveillance incident recording system of the instant claimed invention. The combination of Horvat and Shamosh is piecemeal, and again, hindsight. Horvat is an interactive speed limit monitoring system, wherein a traveling vehicle



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continuously emits or transmits speed information, which is monitored by a mobile unit 12 or interactive with by a stationary monitor 8 or 10. Shamush discloses an internal security protection system, where sensors detect alarm conditions to actuate lights and a recording unit to capture, for example, thieves or hiackers. There is no suggestion of a download device, access codes, or the like. There is also nothing to indicate in either in these references that they should be combined in any manor, much less the manor set forth in the Office Action.

Removal of this rejection is respectfully requested.

V. Drawing Objection

The Office action objected to Fig. 1 of the drawings because the box components lack labels (i.e., legends). The drawing has been corrected as requested.

VI. Conclusion

In view of the foregoing, Applicant respectfully submits that claims 1-20, 22, 23, 26-32, 34-42, 44-49, 51 and 52, as amended, are patentable over the prior art of record. If the Examiner has any questions, Applicant requests that the Examiner telephone the undersigned.

Applicant believes that no fees are due with respect to this paper.

Respectfully submitted,

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**MARKED-UP COPY OF AMENDED CLAIMS**

1. (Twice Amended) A device, being adapted for mobile use, for wireless, coded access of [vehicle information] data from a remote vehicle incident recording system, located on a vehicle, the device comprising:

a) at least one interface for [accessing] transmitting a code to the remote vehicle incident recording system to access the data [from a the remote vehicle incident recording system];

d) an information datalink, coupled to the at least one interface for receiving the accessed data [from the remote mobile vehicle incident recording system]; and

e) a transceiver coupled, at least indirectly, to the information datalink, the transceiver adapted to transmit accessed data from the remote vehicle incident recording system located on the vehicle to the device or to a secure location separate from the device [, the device being adapted for mobile use].

36. (Twice Amended) A method for coded access [accessing] by a remote device, adapted for mobile use, of data [information] from a vehicle incident recording system, located on a vehicle, comprising:

[a] activating a device having an interface for accessing information from a remote vehicle recording system[, the device being separate from the vehicle recording system and adapted for mobile use;

b) receiving information from the remote vehicle recording system;

c) displaying information received from the remote vehicle recording system on the device; and]

(a) [(d)] transmitting a code from the device, having an interface for coded access to the data, to access the data; and

(b) transmitting the accessed data [information] from the [remote] vehicle incident recording system to the remote device or to a secure location separate from the device using a transceiver coupled to the device.

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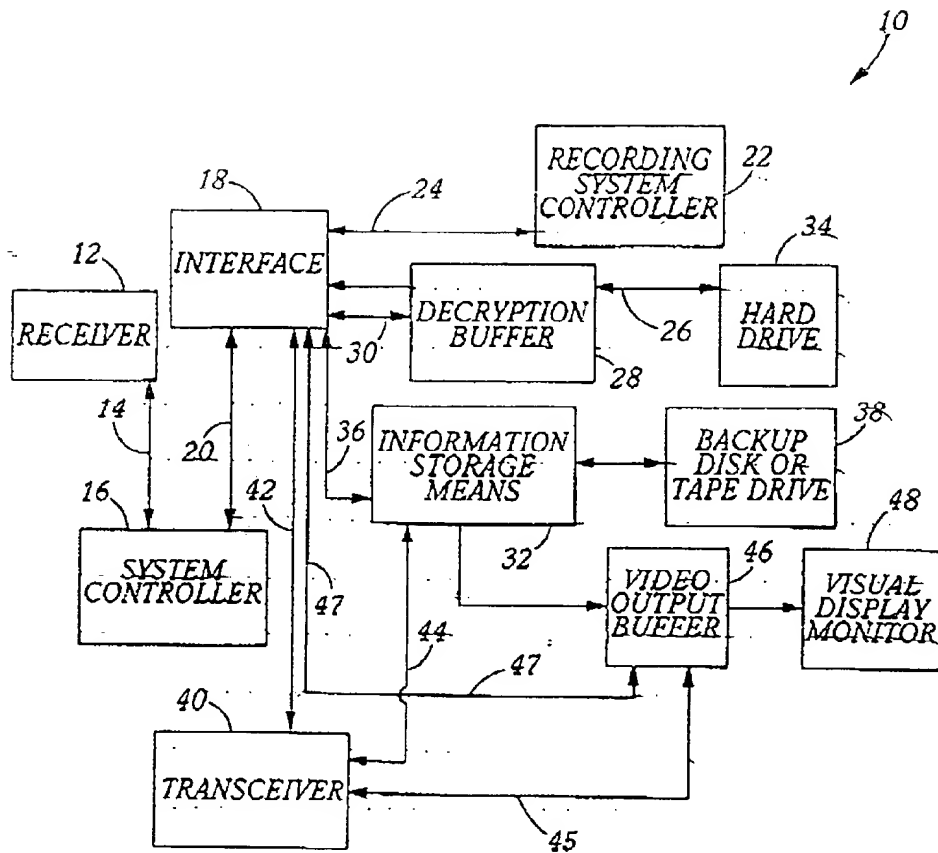


FIG. 1